

**REMARKS/ARGUMENTS**

After the foregoing Amendment, claims 35-45 are currently pending in this application. Claims 35-45 are amended.

**Claim Objections**

The Examiner objected to claims 31-41 because the numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. In view of the foregoing amendments, the withdrawal of the objection to the claims is respectfully requested.

**Double Patenting Rejection**

Claims 31-41 and 36-39 are rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claims 14 of U.S. Patent No. 6,542,481. A Terminal Disclaimer is submitted herewith to overcome the nonstatutory obviousness-type double patenting rejection. The withdrawal of the nonstatutory obviousness-type double patenting rejection is respectfully requested.

**Claim Rejections - 35 USC §103(a)**

Claims 31-41 are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,673,259 to Quick Jr. (hereinafter Quick) in view of the cited references of record.

Applicant respectfully disagrees with the Examiner. The pending claims recite a transceiver configured to receive data traffic from a data buffer in a BS over at least one wireless channel wherein "the transceiver is assigned at least one wireless channel for receiving data traffic from the base station based on an urgency factor indicative of the urgency of the data traffic to be transmitted from the at least one data buffer in the base station." The Examiner has stated that this is not taught by Quick and has failed to show how this is obvious in view of Quick.

Quick discloses a method wherein a communicating transceiver initializes a packet service request, requests a searcher reservation on the access channel, and sends the digital data packet over a random access channel using the specific long code corresponding to the communicating transceiver to obtain a coded digital data packet.

In particular, the section of Quick cited by examiner is directed at a "searcher reservation scheme." See column 9, line 50 – column 10, line 4. According to Quick, a searcher element "is a sliding correlator receiver that continually scans a time domain window in search of a particular user's information signal. In a system with

multiple demodulation elements, a searcher element may also scan a set of time offsets around the nominal arrival of the signal in search of multipath signals that have developed. Typically, the controller directs the searcher to scan the received signal from the base station antenna and correlate the received signal with a known PN spreading sequence (or Long Code) associated with a particular mobile transmitter." See column 9, line 50 – column 10, line 4. In Quick, the priority scheme is based on an MS's need for a User ID. According to Quick, when an MS wants to enter the active state, the MS transmits a request to the BS when the MS determines that a searcher is idle. If the MS wait time for a User ID exceeds a predetermined time, then the BS may enter a Ready State which indicates a greater urgency for the MS to receive a User ID. However, as noted by the Examiner, Quick fails to teach or suggest receiving data traffic from the base station based on an urgency factor indicative of the urgency of the data traffic to be transmitted from the at least one data buffer in the base station, as is recited by the pending claims.

Quick and the cited references of record, either alone or in combination, fail to teach or suggest the pending claims. Accordingly, Applicants believe the pending claims are novel and patentable over the cited art.

Claims 36-45 are dependent upon claim 35, and the Applicants believe these claims are allowable over the cited references of record for the same reasons provided above.

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**Application No.:** 10/767,326

Based on the arguments presented above, withdrawal of the 35 USC §103(a) rejection of claims 31-41 is respectfully requested.

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**Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

Foore et al.

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